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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,418	12/15/2003	Michael Boucher	7175-74059	3977
23643	7590	11/29/2004	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			BAXTER, GWENDOLYN WRENN	
			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,418

Applicant(s)

BOUCHER ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 21, 23-26 and 30 is/are rejected.
- 7) ☒ Claim(s) 19, 20, 22 and 26-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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This is the second office action for serial number 10/736,418, Armboard Assembly, filed on December 15, 2003. This application is a continuation application, 09/802,441, filed March 9, 2001, now patent 6,663,055 B2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17, 21, 23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,104,103 to Auchinleck. The present invention reads on Auchinleck as follows: Auchinleck teaches an armboard apparatus comprising a mount (14), a rod assembly (12a), an armboard (16) and a support assembly (12c, 12b). The mount (14) is adapted to be coupled to the patient support device (18). The rod assembly (12a) includes an elongated rod coupled to a lockable swivel joint (58). The lockable swivel joint is coupled with the mount and is configured to permit movement of the elongated rod relative to the mount about a plurality of axes. The armboard (16) is configured to support the patient's arm (22). The support assembly (12c, 12b) is coupled to the armboard and coupled to the elongated rod. The support assembly includes a lockable swivel joint (sandwich between 16 and 12c) configured to permit movement of the armboard relative to the elongated rod about a plurality of axes.

Claims 17, 18, 25, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,143,652 to Meier. The present invention reads on Meier as follows: Meier

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teaches an armboard apparatus comprising a mount (33-35), a rod assembly (26-29), an armboard (11) and a support assembly (21-25). The mount is adapted to be coupled to the patient support device (37). The rod assembly includes an elongated rod (26) coupled to a lockable swivel joint (28, 29). The lockable swivel joint is coupled with the mount and is configured to permit movement of the elongated rod relative to the mount about a plurality of axes. The armboard is configured to support the patient's arm. The support assembly is coupled to the armboard and coupled to the elongated rod. The support assembly includes a lockable swivel joint (22, 23) configured to permit movement of the armboard relative to the elongated rod about a plurality of axes. The mount includes a block (35) adapted to be coupled to the patient support device and a post (33) coupled to the block for vertical movement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auchinleck. Auchinleck teaches the limitations of the base claim, excluding the armboard being made from a radiolucent material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the material of the armboard as taught by Auchinleck to have incorporated the radiolucent material, since it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claims 19-20, 22, and 27-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 17, 18, 21, 23-26 and 30 have been considered but are moot in view of the new ground(s) of rejection.

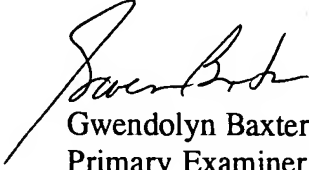
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
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November 23, 2004